

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FREDERICK FISCHER, )  
Plaintiff, ) CASE NO. C10-106-JCC-MAT  
v. )  
DANIEL GRIFFITH, et al. ) ORDER DENYING PLAINTIFF'S  
Defendants. ) MOTIONS TO EXTEND TIME TO  
 ) CONDUCT DISCOVERY  
 )  
 )

Plaintiff Frederick J. Fischer moves for an extension of the discovery deadline (Dkt. 24) and, apparently, to continue consideration of defendants' summary judgment motion so that he may pursue additional discovery (Dkt. 26). Defendants do not oppose extending the discovery deadline and state that if their motion for summary judgment is denied a limited extension of the discovery deadline would be warranted. (Dkt. 25.) Defendants do, however, oppose deferring consideration of their motion for summary judgment both because further discovery is unnecessary to respond to their arguments regarding exhaustion of administrative remedies and qualified immunity and because plaintiff has not indicated what further discovery would reveal. (Dkt. 27.) To date, plaintiff has failed to file a response to defendants' motion for

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01 summary judgment, which noted on May 13, 2011, the same day on which defendants filed a  
02 reply brief. (Dkt. 28.)

03 The Court finds that plaintiff has failed to explain how his opposition to defendants' summary judgment motion would be assisted by further discovery. *See* Fed. R. Civ. P. 56(d).

04

05 The Court therefore **DENIES** plaintiff's motion for a continuance of defendants' summary judgment motion in order to conduct further discovery. (Dkt. 26.) The Court also finds that

06 plaintiff has failed to justify extending the discovery deadline beyond the present date of June 2,

07 2011. The Court therefore **DENIES** plaintiff's motion to extend the discovery deadline (Dkt.

08 24) but grants him leave to renew this motion should defendants' motion for summary

09 judgment be denied. Nonetheless, in the interest of justice, the Court *sua sponte* **RENOTES**

10 defendants' motion for summary judgment (Dkt. 23) for consideration on **June 10, 2011**, which

11 means that plaintiff's substantive opposition to the motion for summary judgment is due on

12 **June 6, 2011**. Defendants may file a supplemental reply brief by **June 10, 2011**. Should

13 plaintiff fail to file a brief in opposition, the Court may consider this decision to be an admission

14 that defendants' motion for summary judgment has merit. *See* Local Rule W.D. Wash. CR

15 7(b)(2).

17 The Clerk is directed to send copies of this Order to plaintiff and to the Honorable John  
18 C. Coughenour.

19 DATED this 17th day of May, 2011.

Mary Alice Theiler  
Mary Alice Theiler  
United States Magistrate Judge

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